

**To:** David Haury[dhaury@anchoragea.com]  
**Cc:** Vaughn, Stephanie[Vaughn.Stephania@epa.gov]; Sivak, Michael[Sivak.Michael@epa.gov]; Schmidt, Mark[schmidt.mark@epa.gov]; Edward Leonard[leonardel@cdmsmith.com]  
**From:** Kwan, Caroline  
**Sent:** Wed 3/15/2017 6:06:32 PM  
**Subject:** FW: Newtown Creek: BERA Dispute Meeting

David

I guess Tom did not pass this on to you. Pls read the last sentence. March 28, 2017.

## Caroline

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**From:** Sivak, Michael

**Sent:** Tuesday, March 14, 2017 3:36 PM

**To:** Tom Schadt <tschadt@anchoragea.com>; David Bridgers <David.bridgers@wallerlaw.com>

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**Subject:** Newtown Creek: BERA Dispute Meeting

The final planned meeting to discuss the issues under dispute for the Newtown Creek BERA is scheduled for March 21 at 2 PM at 666 Fifth Avenue, 26th Floor, Conference Room D/E, New York City. Based on the recent summary submitted by AQ on March 9, 2017 and a review of the letter from David Bridgers dated December 22, 2016 invoking dispute resolution, there are four technical issues and one administrative issue that remain unresolved and in dispute by the NCG. These issues are:

Technical issues:

- Reference areas
- 10-day Sediment toxicity test results
- Wildlife exposure modifying factors
- Selection of tissue thresholds

Administrative issue:

- Due date for submittal of revised BERA

The meeting is scheduled for two hours. As there has been significant discussion between EPA and AQ on these issues since the initial meeting to discuss the dispute, there is a need for both AQ, on behalf of the NCG, and EPA to present their current positions on these issues. I propose the following agenda, in order to address each of the outstanding issues in the dispute:

- Introduction and summary: M. Sivak (5 minutes)
- Reference areas
- AQ discussion (10 minutes)
- EPA discussion (10 minutes)
- Input from all other stakeholders: NYS DEC, NOAA, FWS, NYC DEP (5 minutes)

- 10-day Sediment toxicity test results
  - AQ discussion (10 minutes)
  - EPA discussion (10 minutes)
  - Input from all other stakeholders: NYS DEC, NOAA, FWS, NYC DEP (5 minutes)
- Wildlife exposure modifying factors
  - AQ discussion (10 minutes)
  - EPA discussion (10 minutes)
  - Input from all other stakeholders: NYS DEC, NOAA, FWS, NYC DEP (5 minutes)
- Selection of tissue thresholds
  - AQ discussion (10 minutes)
  - EPA discussion (10 minutes)
  - Input from all other stakeholders: NYS DEC, NOAA, FWS, NYC DEP (5 minutes)
- Due date for submittal of revised BERA
  - AQ recommendation and EPA recommendation (5 minutes)
- Summary: M. Sivak (10 minutes)

Finally, with this communication, I am extending the due date of the dispute period until March 28, one week after the meeting.

Michael Sivak

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